

Exhibit A

Robert C. Schubert (No. 62684)
Willem F. Jonckheer (No. 178748)
Noah M. Schubert (No. 278696)
Schubert Jonckheer & Kolbe LLP
Three Embarcadero Ctr Ste 1650
San Francisco, CA 94111-4018
Ph: 415.788.4220
Fx: 415.788.0161
rschubert@schubertlawfirm.com
wjonckheer@schubertlawfirm.com
nschubert@schubertlawfirm.com

Attorneys for Plaintiffs

Neil A.F. Popović (No. 132403)
Anna S. McLean (No. 142233)
Liên H. Payne (No. 291569)
Sheppard Mullin Richter & Hampton LLP
Four Embarcadero Ctr, 17th Floor
San Francisco, CA 94111-4109
Ph: 415.434.9100
Fx: 415.434.3947
npopovic@sheppardmullin.com
amclean@sheppardmullin.com
lpayne@sheppardmullin.com

Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO

Tim Pozar and Scott Nalick, Individually and
on Behalf of All Others Similarly Situated,

Plaintiffs,

v.

Seagate Technology LLC and Does 1-50,

Defendants.

Case No. CGC-15-547787

**Joint Case Management
Conference Statement**

Date: March 14, 2016

Time: 3:00 p.m.

Dept: 304

Judge: Hon. Curtis E.A. Karnow

Filed: September 4, 2015

Trial: Date not set

The parties jointly submit this Case Management Conference Statement in conjunction with the forthcoming Case Management Conference ("CMC"), scheduled for March 14, 2016 at 3:00 p.m. in Department 304 of the San Francisco Superior Court.

ELECTRONICALLY
FILED
*Superior Court of California,
County of San Francisco*
03/09/2016
Clerk of the Court
BY: ALISON AGBAY
Deputy Clerk

1 **1. PROCEDURAL HISTORY**

2 Plaintiffs Tim Pozar and Scott Nalick (“Plaintiffs”) filed this class action against
3 defendant Seagate Technology LLC (“Seagate” or “Defendant”) on September 4, 2015.
4 Plaintiffs’ complaint alleges that Seagate’s three-terabyte client hard-disk drives contain a latent
5 defect that causes the drives to systematically fail. Seagate denies these allegations.

6 Plaintiffs filed their First Amended Complaint (“FAC”) on November 20, 2015, and
7 Seagate filed a demurrer on December 14, 2015. Plaintiffs also served their First Demand for the
8 Production of Documents (“Plaintiffs’ RFP”) on Seagate on December 14, 2015. In its Case
9 Management Conference Order No. 1, dated December 16, 2015, this Court tolled the time for
10 formal responses, productions, and related motions until further order of the Court.

11 Following this Court’s hearing on February 10, 2016, the Court overruled the demurrer
12 and lifted the stay on discovery responses and motions. Seagate answered the FAC on February
13 23, 2016.

14
15 **2. RELATED CASES**

16 Since the last Case Management Conference, two putative class actions containing similar
17 allegations about Seagate’s 3 TB hard drives, which overlap with the alleged California class here,
18 were filed in the United States District Court for the Northern District of California, *Nelson v.*
19 *Seagate Technology LLC*, 5:16-cv-00523-RMW (filed February 1, 2016) (alleged nationwide and
20 South Dakota classes) and *Ginsberg v. Seagate Technology LLC*, 5:16-cv-00612-RMW) (filed
21 February 5, 2016) (alleged nationwide, California, South Carolina, New York, and Florida
22 classes). The cases have been “related” before Judge Ronald M. Whyte. Initial disclosures and
23 the parties’ Rule 26(f) report are due May 6, 2016, and an initial Case Management Conference
24 is set for May 13, 2016.

1 **3. DISCOVERY**

2 Seagate's response to Plaintiffs' First Demand for the Production of Documents ("RFP")
3 is due on March 10, 2016. Counsel for the parties conferred by telephone on March 2, 2016
4 regarding Plaintiffs' RFP and the upcoming CMC. Seagate proposed coordinating its document
5 production in response to the pending first set of RFPs with its initial disclosures and any
6 subsequent document production in the federal actions. The parties also discussed the format of
7 the production and the need to agree to a protective order. As of the date of this statement, no
8 other discovery requests have been served by either party.

9 ***Plaintiffs' Statement:*** It has now been three months since Plaintiffs first served their RFP.
10 Plaintiffs believe that discovery should proceed expeditiously. While Plaintiffs are amenable to
11 coordination with the federal cases to the extent possible (e.g., regarding the format of produced
12 documents or the form of a protective order), this action should not be delayed by federal cases
13 that were filed over five months after this action.

14 Seagate's proposal to delay discovery by at least an additional two months, until after the
15 initial CMC in the federal actions, is not workable. First, there is no guarantee that discovery in
16 those cases will, in fact, open at that time. Additional federal cases may be filed that require
17 transfer, reassignment, and/or consolidation, further delaying proceedings. And even if no
18 additional cases are filed, Seagate may move to stay discovery in the federal cases pending a
19 motion to dismiss, as it requested in this Court pending its demurrer. Second, the parties in this
20 case and the federal cases may not agree on the scope of discovery. The federal cases include a
21 breach of express warranty claim for hard drives purchased within Seagate's one-year warranty,
22 which is not at issue here, and raises other legal and factual issues concerning state laws other
23 than California on behalf of other state classes. Strictly coordinating the scope and timing of
24 discovery in this case with the federal actions would unnecessarily burden the straightforward
25 discovery process here.

26 There is no reason that document production should not move forward in this case. As a
27 practical matter, since the federal cases are broader in scope, any documents provided here would

likely be relevant to those cases and could be provided on a rolling basis to the federal plaintiffs at Seagate's discretion. There would therefore be no duplication of work, and any additional documents requested could be addressed through supplemental discovery requests.

Seagate, in contrast, has apparently adopted the typical defense strategy of delaying discovery as long as possible. Its attack on the motives of Plaintiffs' counsel is unjustified, and its suggestion that the Court order that Plaintiffs' counsel "coordinate" with federal counsel is improper. As of the date of this CMC, Seagate's production of documents will be past due, and Seagate has not indicated that it intends to produce any documents. Instead, it asked Plaintiffs for an additional two-month delay. Plaintiffs therefore request that this Court order Seagate to produce all responsive documents no later than March 21, 2016.

Defendant's Statement: Defense counsel have been involved in many matters involving multiple, overlapping class actions pending in state and federal courts. The judges typically open up an informal channel of communication to coordinate matters that would involve a substantial duplication of effort if allowed to proceed willy-nilly. Here, Plaintiffs' RFPs include such requests as:

DEMAND FOR PRODUCTION NO. 1:

All DOCUMENTS, including all COMMUNICATIONS, concerning or related to data failures, including hardware, software, and/or firmware issues, bugs, defects, or other problems associated with SEAGATE 3 TB HDDs.

DEMAND FOR PRODUCTION NO. 2:

All DOCUMENTS, including all COMMUNICATIONS, containing or referencing any testing, studies, or reports, including any such unscientific or informal materials, about the reliability, lifespan, or failure of SEAGATE 3 TB HDDs.

Plainly, such documents and ESI will be requested in all three matters, and are not limited by geography. Thus, it is not possible to do a targeted search for product development and testing materials related to Plaintiffs' California class. Yet Plaintiff counsel have thus far declined Seagate's request that they discuss coordination of discovery with counsel in the federal cases.

Without any other justification having been offered, Seagate must assume that professional rivalry is the reason for their refusal. But the interest of the Court, Seagate, and indeed Plaintiffs in conducting an accurate, well-organized, and minimally disruptive search outweighs the desire of these Plaintiff counsel to get ahead of the others. The Court should order Plaintiff counsel to coordinate with the federal Plaintiffs or, in the alternative, set a timetable for production in consultation with all parties and Judge Whyte. If the Court believes a motion for protective order is necessary to accomplish this result, Seagate is prepared to file one.

Two additional clarifications: First, Seagate is not asking for an extension of time to serve its written responses to the pending RFPs. It will respond on March 10 as required by the Code of Civil Procedure. Second, Seagate has been working expeditiously to identify, preserve, and gather responsive documents and ESI. Is is not asking for “delay” beyond what would normally be expected in a class action of this scope, where years of technical, customer service, marketing, and other documents are involved. In any event, whether or not coordination is achieved, Seagate’s production of documents and ESI will proceed as expeditiously as possible under the circumstances.

4. ANTICIPATED MOTIONS

Plaintiffs’ anticipate filing a motion to certify the class and appoint class counsel later this year, following the the completion of any fact and expert discovery necessary to the motion.

Seagate anticipates filing a dispositive motion after discovery as to the named Plaintiffs’ claims is complete.

5. AMENDMENTS AND PARTIES

Plaintiffs are continuing their investigation of Defendant’s conduct and may amend their FAC with additional factual allegations or the substitution of additional defendants for Doe defendants as appropriate. Defendant proposes the Court set a deadline to add additional parties and/or amend the pleadings of September 30, 2016.

1 **6. TRIAL**

2 **Plaintiffs' Statement:** No trial date has yet been set. Plaintiffs have demanded a trial by
 3 jury on all causes of action so triable and believe this action will be suitable for trial within six
 4 months of this Court's ruling on Plaintiffs' motion for class certification.

5 **Defendant's Statement:** Seagate believes the scope and timing of trial will depend on the
 6 Court's rulings on dispositive motions, among other things. Plaintiffs' proposed schedule allows
 7 no time for such motions, no time for merits or expert discovery, and appears to represent a
 8 continuation of Plaintiff counsel's strategy to out-run the federal cases. That is no way to manage
 9 a class action.

10
 11 **7. CASE SCHEDULE**

12 **Plaintiffs' Statement:** The Court has not yet set a schedule for motion practice in this
 13 case, including Plaintiffs' forthcoming motion for class certification. Plaintiffs believe it would be
 14 productive to set a schedule at this time that will expeditiously move the case toward trial.
 15 Plaintiffs propose the following:

Date	Deadline
March 18, 2016	Deadline to File Protective Order with Court
March 21, 2016	Deadline for Defendant to Produce Documents Responsive to Plaintiffs' First DFP
September 19, 2016	Close of Discovery
October 19, 2016	Motion for Class Certification
November 2, 2016	Opposition to Motion for Class Certification
November 16, 2016	Reply in Support of Motion for Class Certification
November __, 2016	Hearing on Motion for Class Certification
May __, 2017	Proposed Trial

25 Seagate's counter-proposal for bifurcated discovery with class certification discovery not
 26 to even commence until next year seems designed to delay commencement of trial for years.

1 ***Defendant's Statement:*** The Complex Litigation User's Manual ("CLUM") suggests the
2 parties consider sequencing discovery, "with each phase designed to either lead directly to a
3 motion or provide efficacies for the next phase." CLUM, at 2. Accordingly, Seagate suggests that
4 the parties focus in the initial phase on completing discovery relating to the merits (as to the
5 named plaintiffs' claims and as to Seagate), leading up to dispositive motions in early 2017. This
6 allows time for an orderly process of coordination with the federal cases on merits discovery of
7 Seagate, so that document production and depositions need not be duplicated. After dispositive
8 motions are decided, if necessary, a second phase of discovery on class certification issues would
9 take place in 2017, again in coordination with the federal cases. Seagate believes it is premature to
10 address trial and pretrial matters, such as expert discovery and pretrial motions, at this time.

11
12 **8. ALTERNATIVE DISPUTE RESOLUTION**

13 Given that the parties have not yet engaged in discovery, the parties believe alternative
14 dispute resolution is premature. Following this Court's rulings on class certification and/or
15 summary judgment, the parties may be ready to revisit whether a settlement conference or
16 private mediation would be appropriate.

1 DATED: March 9, 2016

SCHUBERT JONCKHEER & KOLBE LLP

2 BY: /s/ Noah M. Schubert
3 NOAH M. SCHUBERT (No. 278696)

4 Robert C. Schubert (No. 62684)
5 Willem F. Jonckheer (No. 178748)
6 Noah M. Schubert (No. 278696)
7 **Schubert Jonckheer & Kolbe LLP**
8 Three Embarcadero Ctr Ste 1650
9 San Francisco, CA 94111-4018
10 Ph: 415.788.4220
11 Fx: 415.788.0161
12 rschubert@schubertlawfirm.com
13 wjonckheer@schubertlawfirm.com
14 nschubert@schubertlawfirm.com

15 *Attorneys for Plaintiffs Tim Pozar*
16 *and Scott Nalick, Individually and on*
17 *Behalf of All Other Similarly Situated*

18 **SHEPPARD MULLIN RICHTER & HAMPTON LLP**

19 BY: /s/ Neil A.F. Popović
20 NEIL A.F. POPOVIĆ (No. 132403)

21 Neil A.F. Popović (No. 132403)
22 Anna S. McLean (No. 142233)
23 Liën H. Payne (No. 291569)
24 **Sheppard Mullin Richter & Hamilton LLP**
25 Four Embarcadero Ctr, 17th Floor
26 San Francisco, CA 94111-4109
27 Ph: 415.434.9100
Fx: 415.434.3947
npopovic@sheppardmullin.com
amclean@sheppardmullin.com
lpayne@sheppardmullin.com

Attorneys for Defendant Seagate Technology LLC

Cal. Rules of Court, rule 2.251
www.courts.ca.gov